IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CARL LEWIS,   )
       Plaintiff,   )
)
   vs.   )
) Case No.: 2:06cv237-CSC
)
CITY OF MONTGOMERY,   )
       Defendant.   )
)

STATE OF ALABAMA   )
)
MONTGOMERY COUNTY)

AFFIDAVIT OF BARBARA MONTOYA

I, Barbara Montoya, having first been duly sworn, do depose and say under oath as follows:
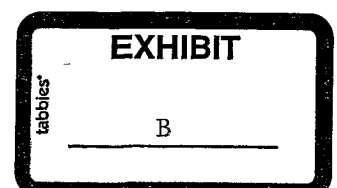
1. My name is Barbara Montoya and I am the Personnel Director for the Montgomery City-County Personnel Board, an independent board set up by Act 2280 of the Alabama Legislature to oversee and advise the City of Montgomery and Montgomery County on personnel issues.

2. I am familiar with the case of Carl Lewis. Mr. Lewis notified me, as Director, that he wished to appeal the decision of the Mayor of Montgomery terminating his employment to the Personnel Board.

3. Having become familiar with the facts surrounding Mr. Lewis's termination, it became apparent that Mr. Lewis was given six (6) separate reprimands on one occasion and that his termination was premised on a rule that allowed for termination when the employee had five or more violations within a one hundred eighty (180) day period.

4. While the policy of the City Shops does not specifically require that the employee be given each reprimand before the next may be written, I believe that that is the intent of the rule. Also, the City of Montgomery's general progressive disciplinary policy is designed to give an employee an opportunity to experience punishment in progressive stages in order to afford them an opportunity to correct their conduct prior to being terminated. Mr. Lewis expressed to me that he did not feel that he had been given sufficient warning that termination was imminent. I agreed.

5. Based upon the above, I intervened on behalf of Carl Lewis. I spoke with Mr. Lewis personally and on the telephone on several occasions. I told Mr. Lewis that I did not have the
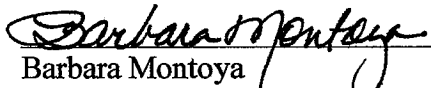
EXHIBIT

B

authority to order his return to work but, with his permission, I would attempt to negotiate his reinstatement. If my efforts were not successful, he could go forward with the hearing that had been scheduled before the Montgomery City-County Personnel Board. Mr. Lewis agreed to allow me to intervene with City of Montgomery management officials. I spoke with Michael Briddell, Executive Assistant to the Mayor, with Terry Gaddis, Director of the Department of Fleet Management and with Gene Knox, Assistant Director of the Department of Fleet Management. The purpose of those conversations was to advise those authorities that Mr. Lewis deserved to be on notice that his job was in jeopardy in order to give him the opportunity to improve and to request that Mr. Lewis be reinstated. City officials including the Mayor agreed to give Mr. Lewis another chance. He was given several opportunities to go back to work. On the first occasion, he was to meet with Mr. Briddell and Mr. Gaddis to discuss his return to work. Mr. Lewis did not appear for that meeting. Following his failure to appear, he advised me that he knew he made a mistake. I intervened on his behalf again and it was agreed that he could report to work and would meet with his supervisors when he reported. He did not report to work as scheduled; neither did he appear at the scheduled hearing before the Personnel Board.
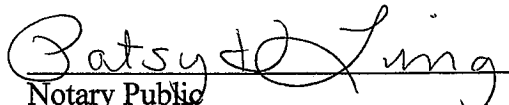
6. I am aware of no racial animus or disparate treatment received by Mr. Lewis by the City of Montgomery. In fact, everyone I spoke with stated that Mr. Lewis was a good employee and an excellent motorcycle mechanic. His only problem was that he could not be allowed to have less stringent time and attendance standards than all other Fleet Management employees. But for his own actions, Mr. Lewis could be working for the City of Montgomery today.

7. The above information is true and correct to the best of my knowledge, information and belief.

Further the affiant saith not.

Barbara Montoya
Director of the Montgomery City-
County Personnel Board

Subscribed and sworn to before me this 24th day of May, 2007.

Notary Public
My Commission Expires: 3-16-11